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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/775,618	02/05/2001	Isao Suzuki	Q62867	8356

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SUGHRUE, MION, ZINN, MACPEAK & SEAS
2100 Pennsylvania Avenue, N.W.
Washington, DC 20037

EXAMINER

HARRY, ANDREW T

ART UNIT	PAPER NUMBER
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2686

DATE MAILED: 08/01/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/775,618

Applicant(s)

SUZUKI, ISAO

Examiner

Andrew T Harry

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1,6,8,13 and 15 is/are rejected.
- 7) ☒ Claim(s) 2-5,7,9-12,14 and 16 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 February 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2, 4, 5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: .

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 6, 8, 13, and 15 are rejected under 35 U.S.C. 102(e) as being anticipated by *Matsuda et al.* U.S. Patent 6,108,532 (“*Matsuda*”).

As pertaining to **claim 1**, *Matsuda* teaches a portable telephone and a method for determining the moving status of a portable telephone (see *Matsuda*, abstract), comprising:

receiving a call setup signal for an incoming call from a base station using a **designated radio channel** (see *Matsuda*, Fig. 3, item 3a, and col. 8, lines 30-35);

measuring a reception signal strength on a sequentially selected one of N radio channels that are previously designated by the base station at a timing other than a communication timing of **the designated radio channel**, where N is an integer greater than 1 (see *Matsuda*, col. 6, line 26-col. 7, line 3, and Fig. 2, *Matsuda* measures the signal of the received voice communication channel which is received at a time different than the received call setup (or paging) signal. As interpreted by the examiner the “designated radio channel” in the first step is the same as the “designated radio channel” that is referenced in the second step, therefore a signal “at a timing

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other than a communication timing of the designated radio channel” could easily be the traffic channel ~~could easily be the traffic channel~~ as is taught by *Matsuda*); and

determining a moving status of the portable telephone based on measured reception signal strengths. See *Matsuda*, col. 6, line 26-col. 7, line 3.

As pertaining to **claim 6**, *Matsuda*’s telephone and method thereof communicates with the base station in a TDMA scheme, wherein a next timing for transmission and reception is relatively determined by a current timing for transmission and reception. See *Matsuda*, col. 5, lines 19-25.

As pertaining to **claim 8**, *Matsuda* teaches a portable telephone comprising:

a transceiver for receiving and transmitting radio signals from and to a base station using a radio channel designated by the base station (see *Matsuda*, Fig. 3, item 3a, and col. 8, lines 30-35, the paging, or control, channel is clearly designated by the base station);

a reception level measuring circuit for measuring a reception signal intensity on a currently selected radio channel (see *Matsuda*, col. 6, line 26-col. 7, line 3, and Fig. 2); and

a moving status detector for detecting a moving status of the portable telephone based on a measured reception signal strengths, each of which is measured on a sequentially selected one of N neighboring radio channels that are previously designated by the base station at a timing other than a communication timing of the designated radio channel in response to receipt of a call setup signal for an incoming call from the base station using the designated radio channel. See *Matsuda*, col. 6, line 26-col. 7, line 3, and Fig. 2, *Matsuda* measures the signal of the received voice communication channel which is received at a time different than the received call setup (or paging) signal. As interpreted by the examiner the “designated radio channel” in

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the first step is the same as the “designated radio channel” that is referenced in the second step, therefore a signal “at a timing other than a communication timing of the designated radio channel” could easily be the traffic channel as is taught by *Matsuda*.

As pertaining to **claim 13**, *Matsuda*’s telephone further comprises:

a controller controlling the transceiver so that the portable telephone communicates with the base station in TDMA scheme, wherein a next timing for transmission and reception is relatively determined by a current timing for transmission and reception. See *Matsuda*, col. 5, lines 19-25.

As pertaining to **claim 15**, *Matsuda*’s telephone further comprises:

a display circuit for displaying necessary information on screen (see *Matsuda*, col. 7, lines 4-9);

an alert circuit for alerting a user to the occurrence of an incoming call (see *Matsuda*, col. 7, lines 41-46);

a controller controlling the display circuit and the alert circuit (see *Matsuda*, col. 7, lines 47-58), such that;

when the moving status detector determines that the portable telephone is not moving at high speeds, both the display circuit and the alert circuit are activated (see *Matsuda*, col. 8, line 24-col. 9, line 8, and Fig. 3), and

when the moving status detector determines that the portable telephone is moving at high speeds, the alert circuit is not activated but the display. See *Matsuda*, col. 8, line 24-col. 9, line 8, and Fig. 3.

Allowable Subject Matter

Claims 2-5, 7, 9-12, 14, and 16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 2, 4, 7, 9, 11, 12, 14, all indicate that channels other than the paging channel and the assigned communication channel are measured to determine the mobile devices speed. They also provide detail regarding the iterative manner that the claimed invention uses to scan through multiple (N) channels (other than the paging and traffic channel) in order to determine the moving speed of the mobile telephone. These, as well as all of the other limitations included in the claims, cause them to be allowable over the prior art made of record during the examination of the instant application.

Claims 3, 5, 10, and 16 all depend from one of the above claims and would also be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

B. Wang, U.S. Patent 6,163,534 teaches a method for determining the speed of a terminal equipment and a receiver.

C. Konishi, U.S. Patent 5,898,926 teaches a channel switching system for mobile communication.

D. Hori, U.S. Patent 5,990,676 teaches a method and apparatus for detection of a moving speed of a mobile terminal in mobile communication.

E. Hardouin, U.S. Patent 6,311,078 teaches automatic shutoff for wireless endpoints in communication.

F. Murray, U.S. Patent 6,496,709 teaches an apparatus and method for speed sensitive operation in a wireless communication device.

G. Hakalin et al., U.S. Patent 6,577,603 teaches a method for determining speed of terminal, and receiver.

H. Mottier et al., U.S. Patent 6,542,745 teaches a method of estimating the speed of relative movement of a transmitter and receiver, in communication with one another, of a telecommunication system.

I. Byrne, U.S. Patent 6,421,538 teaches a multi-mode radio telephone with velocity sensing mode selection.

J. Ericsson et al., U.S. Patent 5,884,178 teaches a method and apparatus for estimating speed of a mobile station in a cellular communications system.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew T Harry whose telephone number is 703-305-4749. The examiner can normally be reached on M-F 8:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marsha Banks-Harold can be reached on 703-305-4379. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9314 for regular communications and 703-872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-4700.

ATH

July 20, 2003



Marsha D Banks-Harold
MARSHA D. BANKS-HAROLD
SUPERVISORY PATENT EXAMINER
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